

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ROGER JOHNSON, a/k/a ROGER CAL
JOHNSON, JR.

PLAINTIFF

V.

CIVIL ACTION NO. 3:22-CV-170-KHJ-MTP

NURSE INGE, et al.

DEFENDANTS

ORDER

Before the Court is the [23] Report and Recommendation (“Report”) of United States Magistrate Judge Michael T. Parker. He recommends that: (1) pro se Plaintiff Roger Johnson’s in forma pauperis (“IFP”) status be revoked pursuant to 28 U.S.C. § 1915(g), (2) this case be dismissed without prejudice, and (3) the Clerk of Court be directed to reopen this civil action if the filing and administrative fees are paid within 30 days of the entry of dismissal. [23] at 1. Written objections to the Report were due by July 14, 2023. *Id.* at 6. The parties were notified that failure to file written objections by that date would bar further appeal in accordance with 28 U.S.C. § 636. *Id.* at 6–7.

When no party has objected to a magistrate judge’s report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1). Instead, it is reviewed under the “clearly erroneous, abuse of discretion, and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Johnson was incarcerated with the Mississippi Department of Corrections when he filed this action and moved for leave to proceed IFP. [2] at 1; [1] at 2. The Court conditionally granted his application and ordered the parties to brief the Court on whether Johnson met the imminent danger exception under § 1915(g). [17] at 1; [6] at 2; [5] at 2. The Magistrate Judge found that Johnson had accumulated four strikes under § 1915(g) and was not in imminent danger of serious physical injury at the time he filed this action. [23] at 1, 4–6. He therefore recommended Johnson’s IFP status be revoked and that this be dismissed without prejudice. Johnson did not file objections to the Report, and the time to do so has passed. The Court finds the Report is neither clearly erroneous nor contrary to law.

IT IS, THEREFORE, ORDERED AND ADJUGED, that the [23] Report and Recommendation of United States Magistrate Michael T. Parker is adopted as the opinion of the Court. Pro se Plaintiff Roger Johnson’s pauper status is REVOKED pursuant to 28 U.S.C. § 1915(g), and this matter is DISMISSED WITHOUT PREJUDICE. The Clerk of Court is directed to reopen this civil action if Plaintiff pays the \$402 filing and administrative fees within 30 days of the entry of dismissal.

SO ORDERED, this the 21st day of July, 2023.

s/ *Kristi H. Johnson*
UNITED STATES DISTRICT JUDGE